



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,391	07/31/2001	Gregory P. Fitzpatrick	BOC9-2000-0084(219)	3428
40987	7590	12/10/2008		
AKERMAN SENTERFITTT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER DANIEL JR, WILLIE J	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 12/10/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/919,391

**Applicant(s)**

FITZPATRICK ET AL.

**Examiner**

WILLIE J. DANIEL JR

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No./Mail Date: \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is in response to applicant's RCE amendment filed on 24 November 2008.

**Claim 1** is now pending in the present application and **claims 2-22** are cancelled. This office action is made **Non-Final**.

### *Continued Examination Under 37 CFR 1.114*

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 24 November 2008 has been entered.

### *Claim Objections*

3. Claim 1 is objected to because of the following informalities:
  - a. Claim 1 recites the limitation "...**the caller** deciding..." in line 9 of the claim. The Examiner suggests replacing said limitation to have proper **antecedent** and help clarify the claim language.  
Appropriate correction is required.
4. This list of examples is not intended to be exhaustive. The Examiner respectfully requests the applicant to review all claims and clarify the issues as listed above as well as any other issue(s) that are not listed.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code 103(a) not included in this action can be found in a prior Office action.

**Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Rignell et al.** (hereinafter Rignell) (**US 5,818,920**) in view of **Labban** (**US 6,574,486 B1**), **Brisebosis et al.** (hereinafter Brisebois) (**US 6,853,711 B2**), **Seppo** (**GB 2284965 A**), and **Wang et al.** (hereinafter Wang) (**US 6,934,543 B2**).

Regarding **claim 1**, Rignell discloses a method for providing an originating party utilizing an originating pervasive communication device (PCD) (e.g., mobile terminals A, B, C) with information local to a receiving party utilizing a receiving PCD (e.g., mobile terminals A, B, C) (see abstract; col. 3, lines 28-50; col. 7, lines 1-2; Figs. 1-3) comprising the steps of:

identifying an attempt to originate a call or a message (e.g., call) from the originating PCD (e.g., subscriber A) to the receiving PCD (e.g., terminal C) (see col. 5, lines 5-21);

prompting the originating party utilizing the originating PCD to decide whether or not to receive information local to the receiving PCD (see col. 5, lines 15-19; col. 4, lines 60-64; col. 7, lines 15-18), where a determination is made for the information to be displayed and the sending party (A, caller) can have the information provided via a display or voice request as evidenced by the fact that one of ordinary skill in the art would clearly recognize whether automatic or a manual operation to provide the requested information;

upon the caller deciding to receive the information local to the receiving PCD, sending a request for the local information to a service provider of the receiving PCD from a service provider of the originating PCD (see col. 5, lines 15-19; col. 4, lines 60-64; col. 7, lines 15-18), where a determination is made for the information to be displayed and the sending party (A, caller) can have the information provided via a display or voice request and information is provided via the system as evidenced by the fact that one of ordinary skill in the art would clearly recognize whether automatic or a manual operation to provide the requested information;

retrieving the information local to said receiving PCD (C) by the service provider of the receiving PCD (see col. 5, lines 15-19; Fig. 3), where the local information is the time and time zone of the receiving handheld device and information is provided via the system,

wherein said local information comprises a current time, date, and location (e.g., time zone or geographic area) of said receiving PCD (C) and information indicating whether said receiving PCD (C) is not to be disturbed (see col. 7, lines 15-18,21-25; col. 8, lines 5-8,16-20), where the message for subscriber (C) indicates a filter is active in which the "not to be disturbed" would be inherent to provide restriction of a call during a certain time range and where the local information includes the local time of day and the time zone that the receiving handheld device is located in which the date would be inherent which is due to the location and/or time zone of the calling device relative to location of receiving device based on the 24 longitudinal divisions (i.e., time zones) for time keeping of the earth as evidenced by the fact that one of ordinary skill in the art would clearly recognized (see col. 5, lines 15-19; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4);

querying the originating party as to whether to display the current location information of said receiving party (see col. 5, lines 15-19; col. 4, lines 60-64; col. 7, lines 15-18), where a determination is made for the information to be displayed and the sending party (A, caller) can have the information provided via a display or voice request in which there must be a querying as evidenced by the fact that one of ordinary skill in the art would clearly recognize whether automatic or a manual operation to provide the requested information;

supplying the retrieved local information to the originating party (A) (see col. 5, lines 15-19; col. 4, lines 60-64; col. 2, lines 28-31; col. 6, lines 64-67; Figs. 1-4), where the calling subscriber (A) receives local information (e.g., time zone and local time) of receiving party (C),

wherein whether or not the current local information of the receiving party is displayed depends on an answer of the originating party to the query; prompting the originating party to select an appropriate action among available actions upon receiving the local information of the receiving party (see col. 5, lines 15-19; col. 4, lines 60-64; col. 7, lines 15-18), where a determination is made for the information to be displayed and the sending party (A, caller) can have the information provided via a display or voice request in which there must be a querying as evidenced by the fact that one of ordinary skill in the art would clearly recognize whether automatic or a manual operation to provide the requested information,

wherein the available actions include connecting the call or message to the receiving party, deferring the call or message to a more appropriate time, sending the call or message to a voicemail (e.g., answering machine) or mail box of the receiving party, and disconnecting the call or message (see col. 7, lines 18-25; col. 8, lines 23-25), where the calling subscriber

can confirm the call by deciding to connect or terminate or be connected to an answering machine or answering service in which deferring the call or message to a more appropriate time would be inherent since the calling subscriber would be informed of the local information (e.g., time) of the called subscriber (see col. 7, lines 15-18,21-25,55-64; col. 8, lines 5-8,16-20) and determines to call back at a more convenient (or appropriate) time as evidenced by the fact that one of ordinary skill in the art would clearly recognize.

See MPEP § 2144.04(III). [In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958)...The court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art.]. Rignell inexplicitly disclose the features a message; local information comprises a current date; a mail box; querying the originating party as to whether to display the current location information of said receiving party; if the originating party indicates that the call or message is urgent, determining whether to send an alert signal to said receiving PCD based on said determined local information and said received indication. However, the examiner maintains that the feature(s) a message; a mail box was well known in the art, as taught by Labban.

In the same field of endeavor, Labban at the least discloses the feature(s) a message; a mail box (see col. 3, lines 53-59; col. 6, lines 36-39; col. 7, lines 48-62; Figs. 4 “ref. 426”, 6 “ref. 624”), where the wireless telephone is capable of multiple types of calls possible, including a non-voice message type such as SMS in which a mail box would be inherent for the text messages as evidenced by the fact that one of ordinary skill in the art would clearly recognize.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature(s) a message; a mail box, in order to facilitate the ease of use of a cellular telephone by displaying to the user a menu of calling options, as taught by Labban (see col. 2, lines 19-26). The combination of Rignell and Labban inexplicitly discloses having the feature(s) local information comprises a current date; querying the originating party as to whether to display the current location information of said receiving party; if the originating party indicates that the call or message is urgent, determining whether to send an alert signal to said receiving PCD based on said determined local information and said received indication. However, the examiner maintains that the feature(s) local information comprises a current date was well known in the art, as taught by Brisebois.

As further support in the same field of endeavor, Brisebois at the least discloses the feature(s) local information (e.g., context information) comprises a current date (see col. 2, lines 46-50; col. 3, lines 7-9), where the system can provide a date to the calling party.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell and Labban to have the feature(s) local information comprises a current date, in order to have a method to provide calling and called party context information to help them better decide whether and how to initiate or accept communications, as taught by Brisebois (see col. 1, lines 36-39). The combination of Rignell and Labban inexplicitly discloses having the feature(s) querying the originating party as to whether to display the current location information of said receiving party; if the originating party indicates that the call or message is urgent, determining



whether to send an alert signal to said receiving PCD based on said determined local information and said received indication. However, the examiner maintains that the feature(s) querying the originating party as to whether to display the current location information of said receiving party was well known in the art, as taught by Seppo.

In the same field of endeavor, Seppo at the least discloses the feature(s) querying the originating party as to whether to display the current location information of said receiving party (see par. bridging pgs. 6-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell, Labban, and Seppo to have the feature(s) querying the originating party as to whether to display the current location information of said receiving party, in order to provide a method for providing a user of a first telephone with the time of day within a geographical area corresponding to a second telephone, as taught by Seppo (see pg. 3, 1<sup>st</sup> full par.). The combination of Rignell, Labban, and Seppo does not specifically disclose having the features if the originating party indicates that the call or message is urgent, determining whether to send an alert signal to said receiving PCD based on said determined local information and said received indication. However, the examiner maintains that the features if the originating party indicates that the call or message is urgent, determining whether to send an alert signal to said receiving PCD based on said determined local information and said received indication was well known in the art, as taught by Wang.

In the same field of endeavor, Wang at the least discloses the features

if the originating party (MS A) indicates that the call or message is urgent (see col. 3, lines 38-49; Fig. 2 “ref. 207-210”), where the emergency call is connected to mobile subscriber unit (B),

determining whether to send an alert signal (e.g., call) to said receiving PCD based on said determined local information and said received indication (see col. 3, lines 38-49; col. 6, lines 21-29,31-33; Fig. 2 “ref. 207-210”), where the emergency call is connected to mobile subscriber unit (B). As further support, Wang at the least further discloses the feature(s) wherein said location information indicating whether said receiving party is not to be disturbed (e.g., inconvenient) (see col. 3, lines 34-38; Figs. 2 “ref. 206” and 4); the mobile subscriber unit receives a text message (see col. 6, lines 31-33), where the mobile subscriber unit displays a text message which indicates the capabilities of transmit/receive text messages, and determining whether said current location information is to be displayed (see col. 8, lines 17-22); querying the originating party as to whether to display the current location information of said receiving party (see col. 8, lines 17-22), where the calling subscriber unit receives a text message in which there must be a querying as evidenced by the fact that one of ordinary skill in the art would clearly recognize. For example, a received message is typically provided with a notification such as an alert (e.g., ringing, icon, blinking indicator, etc.) in which the user has to check an inbox to display a text message.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rignell, Labban, Brisebois, Seppo, and Wang to have the features if the originating party indicates that the call or message is urgent, determining whether to send an alert signal to said receiving PCD based on said determined

local information and said received indication, in order to filter incoming call, such that mobile calls are not established during a time which is inconvenient for the called mobile subscriber unless the call is an emergency call, as taught by Wang (see col. 1, lines 22-25,28-29).

***Response to Arguments***

6. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection necessitated by the amended language and/or new limitations.

In response to applicant's arguments, the Examiner respectfully disagrees as the applied reference(s) provide more than adequate support and to further clarify (see the above claims for relevant citations).

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIE J. DANIEL JR whose telephone number is (571)272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. J. D., Jr./

WJD, Jr.  
05 December 2008

/Charles N. Appiah/  
Supervisory Patent Examiner, Art Unit 2617